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Trial

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

14 Cr. 68 (KBF)

5 ROSS WILLIAM ULBRICHT,

6 Defendant.

7 -----x

8 New York, N.Y.
9 January 26, 2015
9:27 a.m.

10 Before:

11 HON. KATHERINE B. FORREST,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA,

16 United States Attorney for the
Southern District of New York

17 BY: SERRIN A. TURNER

TIMOTHY HOWARD

18 Assistant United States Attorneys

19 JOSHUA LEWIS DRATEL

20 LINDSAY LEWIS

JOSHUA HOROWITZ

Attorneys for Defendant

21 - also present -

22 Special Agent Vincent D'Agostino

23 Molly Rosen, Government Paralegal

24 Nicholas Evert, Government Paralegal

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(In open court; jury not present)

THE DEPUTY CLERK: This is the continuation of the matter on trial, the United States of America v. Ross Ulbricht, 14 CR 68.

Counsel, state your names for the record.

MR. TURNER: Good morning. Serrin Turner for the government. With me at counsel table is AUSA Timothy Howard, Special Agent Vincent D'Agostino from the FBI, and Molly Rosen, a paralegal from our office. Nick Evert will be here shortly.

MR. DRATEL: Joshua Dratel for Ross Ulbricht standing beside me. Joshua Horowitz is here as well. Lindsay Lewis is trying to get into the building downstairs.

THE COURT: Mr. Horowitz gets an A because he's always the first one here of anyone. Thank you. Good morning, everyone.

We have a couple of things to go over. I want to talk first about the timing for the next few days in light of this significant snowstorm that actually we're in the process of getting right now. The snow has started outside. My intention is to adjourn today at noon. We have got some jurors who come from Rockland County and some who really need to get home because they are necessary for childcare and other things and I don't want them to be stuck here. It can create some very difficult issues.

Then my thought is that we would, in light of

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1 the -- and I have been monitoring the reports and it doesn't
2 seem like this is a fake storm that's going to go away, it
3 seems like it's a real one -- that we'll tell them right now
4 that we will not have trial tomorrow. I want to hear from you
5 folks if anybody opposes this, and then for Wednesday, I think
6 it depends on whether or not a lot of snow is, in fact, dumped
7 on the area and how quickly people are able to get it cleaned
8 up and what the conditions are where some of the jurors are.

9 I'm going to have Joe communicate with some of the
10 jurors who are in the more far-flung locations on Tuesday to
11 see whether or not they're able to get out, and then he will
12 communicate with them all by text or phone to let them know.
13 They're also going to be instructed for Wednesday to call into
14 the court's auto line, which is if the courthouse is closed,
15 generally there's an auto line that everybody can call and Joe
16 will make sure they have all got that phone number, but if the
17 court's closed, that's it. It doesn't matter if they can get
18 in. But if the court is not closed but Manhattan is okay but
19 folks can't get in from Westchester or Rockland, then we're
20 going to have to hold off on Wednesday, as well. I will
21 nevertheless tell them that Wednesday we will start not at
22 9:30, but at 10:00 for them. So the best-case scenario would
23 be starting at 10:00, which would mean we would start at 9:30,
24 just to give people a little bit of extra time to get through
25 this.

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1 How does that sound to you folks?

2 MR. TURNER: Sounds perfectly appropriate.

3 MR. DRATEL: That sounds exactly the same.

4 THE COURT: So we'll see. It may mean that we end up
5 with half a day today and then Thursday and nothing in between
6 but we'll play it by ear. I think we have all lived through
7 some snowstorms now and we have had snowstorms with less snow
8 that have resulted in significant disruption.

9 I wanted to fill you in on Juror No. 4. I have been
10 in communication with Juror No. 4's employer regarding the
11 requirement of this particular employer to use vacation time
12 after two weeks of trial time. Now, we don't quite hit two
13 weeks until I think half a day after we adjourn today at noon
14 for her. We have been trying to get them to accommodate this
15 unusual situation where it's a longer trial than most trials.
16 Jury selection here was quite involved. I have not heard back
17 whether or not they'll be able to make the accommodation.

18 If they can't, we'll have to discuss what to do next
19 and confer with Juror No. 4 as to how she feels about it. We
20 do know it was a concern of hers, which is why we have been
21 trying to get an accommodation.

22 Juror No. 10 was the juror who has a potential issue
23 around the 14th of February that she had previewed up at the
24 side bar during voir dire. That may or may not be a problem.
25 We'll play that out as we go, but those are the two that I'm

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1 aware of. I just wanted to fill you in and make sure that
2 everybody has the same information about those.

3 Witness lists: I've gotten this morning a revised
4 witness list from the government. I take it has been shared
5 with defense.

6 MR. TURNER: Yes, your Honor.

7 THE COURT: Tell me what's different. I can compare
8 the two but why don't you give me a summary.

9 MR. TURNER: One moment, your Honor.

10 THE COURT: I see. You put in dates which will now be
11 different yet again.

12 MR. TURNER: Right. Actually it looks like this is
13 slightly outdated. Gary Alford will be our next witness. Then
14 Alex Wilson -- I'm sorry -- Alex Miller from Stack Exchange,
15 that will be a brief witness who is just a document custodian.

16 In terms of what else is different, I believe the only
17 other difference is we are no longer planning to call Andrew
18 Michael Jones as a witness. I'm sorry. We are planning on
19 calling Vincent D'Agostino, the special agent here, to give
20 brief testimony. Basically we have shortened it. Overall, we
21 have shortened it. The witnesses we cut are shorter, their
22 testimony.

23 THE COURT: Terrific. Thank you.

24 Anything further on this? We'll pick up with
25 Mr. Beeson this morning and hopefully we can get him off the

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1 stand and he can get on a plane before he gets snowed in.

2 MR. TURNER: Dubious, but there's hope I guess.

3 THE COURT: You think it's too late for that?

4 MR. TURNER: Probably. We would note that we have
5 asked defense counsel witness list and are still waiting for a
6 witness list from the defense.

7 THE COURT: I had told Mr. Dratel that I would start
8 pressing him on Wednesday, so I'll press you whenever you're
9 ready but no later than Wednesday. Do you want to preview
10 anything.

11 MR. DRATEL: We did send the government an expert
12 notice yesterday last night.

13 THE COURT: All right.

14 MR. DRATEL: Probably the extra time today, we can put
15 together, probably overnight, for the government so we can get
16 some others. There may be one daytime decision that -- in the
17 next day or two.

18 THE COURT: We'll stay tuned for that. The jury
19 charge: You folks should have received a copy of the jury
20 charge, which we used yours as a reference and I went through
21 each of the differences between that what we believe the
22 correct statement of the law is and figured out what you had
23 changed from my *Delva* (ph) charge and decided whether we cared.

24 In light of the fact that we'll have tomorrow off, if
25 you folks could get us the Word version with comments, track

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1 changes, by tomorrow late afternoon, 5:00, 6:00, that would be
2 helpful. That way, we can start in on it Wednesday morning.

3 MR. DRATEL: What we were thinking of doing would be
4 to communicate between the parties to see if we can narrow the
5 issues that we presented to the Court.

6 THE COURT: Terrific.

7 MR. DRATEL: It would give us additional time.

8 THE COURT: Terrific. One of those I note, and I may
9 need letters about this, you folks will need to figure out
10 whether or not you'd like to state your position in a letter so
11 that it can be something that we can all focus on. It has to
12 do with a CCE. So the continuing series of violations, as you
13 folks know, there's a fair amount of case law on this. There's
14 the *Richardson* case and a number of other cases, but there
15 seems to be a difference of view, certainly as between you
16 folks. And it will be for you to let the Court know whether or
17 not you've got support for your respective positions as to,
18 number one, whether or not there has to be a specification of
19 the series of violations in the verdict form, which I think the
20 answer to that question is no; and the extent to which they
21 need to be listed for the jury specifically in the charge or
22 elsewhere, and I think the answer to that is open to debate.

23 In terms of the indictment, I think that it does not
24 need to be listed in the indictment, though there are some
25 courts which suggest that it's useful to do so.

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1 But I'd like to get your views on the open issues with
2 respect to the CCE because how that gets dealt with is very
3 important, all right. Does that make sense?

4 MR. TURNER: We'll do that.

5 THE COURT: Terrific. Thanks.

6 We can fold in the *Alleyne* issue relating to CCE into
7 that process, perhaps. There may not even be any debate
8 between you folks as to whether or not that needs to occur.

9 I'm on Part 1 for the next two weeks. Because of the
10 delays in the trial -- we pick Part 1 a year or more in
11 advance. Originally, we were not scheduled for trial at this
12 time. That's fine.

13 As you folks know, and the audience may not know, Part
14 1 is like judge-on-call. It's like being the doctor-on-call.
15 It's 24/7 and it's for a two-week period. Typically, there's
16 nothing after 7:00 p.m., so it's not really a difficult thing
17 in the middle of the night.

18 It does mean we've got things shifted around so that I
19 can take things before I come out here. I can take things at
20 the break. I can take things at lunch hours. It does mean
21 that there may be something if it was incredibly urgent that
22 couldn't wait for a break or a lunch hour that I have to take.
23 That would be unusual. It does happen. As you folks know,
24 you've probably all been people on the side of coming into
25 judges who are in Part 1 needing something urgent. We'll play

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1 that by ear. I don't expect any big issues. I really don't.

2 That's what I have. What do you have? Anything?

3 MR. TURNER: No, your Honor.

4 THE COURT: Mr. Dratel.

5 MR. DRATEL: No.

6 THE COURT: We're waiting on seven. It is possible
7 that one thing I had considered was whether or not -- it had
8 not started snowing until about an hour ago -- that there may
9 be some people who were sufficiently concerned about the snow
10 that they just are not going to chance it. We haven't heard
11 from the seven. Is that right? Two are on their way. The
12 ones who are furthest out are actually already here.
13 Hopefully, we'll get the others soon.

14 If there's nothing else, we'll take a break until
15 these folks arrive. One thing, Mr. Dratel, as long as we have
16 a minute and I don't know, is there another cooperator on this
17 list?

18 MR. TURNER: Yes, Mr. Duch.

19 MR. DRATEL: Yes.

20 THE COURT: If you're going to go into your doing
21 this, the line of cross, which is not atypical, you're doing
22 this to get a break on the penalty, there was an objection
23 during -- I was rereading the transcript -- there was an
24 objection during Bates for life, a lifetime of imprisonment.
25 Don't mention "life." You can do "substantial." You can do

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1 "significant." You can do lots of other words, but lifetime
2 imprisonment, unless you can show that they were going to be
3 getting life -- in other words, mandatory life or something
4 else, the range is not something that you should be going into.

5 As you know, there's lots of cases on this. It
6 actually treads into the area of jury nullification, so life in
7 the situation of the cooperators is off limits.

8 MR. DRATEL: I think I'm permitted to go into it.

9 THE COURT: To life?

10 MR. DRATEL: I understand the Court's ruling, but I'm
11 making my record.

12 THE COURT: Why don't you give me a case that says you
13 can go into life imprisonment for a range. It's not a
14 statutory -- there's no requirement for these folks. There are
15 so many crimes which carry up to life, and the use of the word
16 life, when somebody reasonably expects that they're going to
17 get far less, conveys to the jury a sense that this particular
18 trial involves something different. Now, to the extent that
19 that's the message to be conveyed, that's the message that we
20 dealt with during the *in limine* motions.

21 MR. DRATEL: I'll look at the cases, but in my
22 experience and what I think is appropriate based on the number
23 of factors, one of which is when this guy pled guilty, he was
24 told you can face up to life in prison, I don't know, I don't
25 think it's your Honor, I think it's Judge Griesa is the judge

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1 on that case, but the --

2 THE COURT: Not Duch, Bates.

3 MR. DRATEL: So whatever the maximum penalty is,
4 they're told, and whatever he was charged with is a factor in a
5 decision to cooperate.

6 THE COURT: Well, if you have particular facts
7 relating to pressure placed upon a particular cooperator,
8 that's what I want to elicit from you. If there's a particular
9 reason why for this cooperator it's more relevant than it might
10 otherwise be, but there are a series of cases on naming the
11 penalties and going into things that are more than just the
12 words of substantial, significant, more than a decade, and
13 there are lots of ways of getting at it.

14 But you give me what you would like and if Mr. Duch,
15 if there's something really specific for him, so be it.

16 MR. DRATEL: Also, I thought it was relevant for
17 Bates, too, but obviously the Court has ruled, in terms of his
18 own --

19 THE COURT: I didn't sustain the objection. I let it
20 go because it was already out and I didn't want to pause on it.
21 I thought I would preemptively discuss the issue.

22 Sometimes the government doesn't care about a
23 particular point. This is my view.

24 Does the government have a position on this?

25 MR. TURNER: For Bates?

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1 THE COURT: Not Bates, because Bates is done and
2 locked and loaded. I'm not going to go back over Bates.

3 MR. TURNER: For Duch, to be candid, I think we would
4 draw on direct the maximum penalty is he's facing 40 years.

5 THE COURT: The maximum for him is 40?

6 MR. TURNER: Yes.

7 THE COURT: He's looking at a (b)(1)(B)?

8 MR. TURNER: Yes.

9 MR. DRATEL: But it's (b)(1)(A) weight.

10 THE COURT: But if it's (b)(1)(A) weight and he's
11 pled, then under *Alleyne*, he can't get a statutory maximum
12 greater than 40.

13 MR. DRATEL: I understand that, but when he made the
14 decision to cooperate --

15 THE COURT: You can always use (b)(1)(A) weight for
16 purposes of the 3553(a) factors also, but he can't raise a
17 statutory max now.

18 MR. DRATEL: No, I understand that in what he's
19 facing, but what I'm saying is when he was sitting there with
20 his lawyer deciding whether to cooperate, he was aware -- if
21 he's not, he's not, but you know, that he was facing a
22 significantly greater penalty.

23 THE COURT: You folks will present to me whether or
24 not there are particular facts that were used to pressure that
25 fellow that would be relevant to his bias. Obviously, bias for

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1 a cooperator is a big point, which the defense can freely
2 explore, but I want to make sure that we're within the limits
3 of the law.

4 I think we're still waiting on folks. Let's take a
5 break until they all show up.

6 (Continued on next page)

F1QAULB2

Beeson - Cross

1 THE COURT: Let's bring out the jury.

2 (Jury present)

3 THE COURT: All right. Ladies and gentlemen, let's
4 all be seated. Before we get going I want to fill you in on
5 the schedule for the next few days. Today, because of the
6 snow, we'll be ending at noon and I know that the snow itself
7 isn't supposed to really become particularly bad until three
8 o'clock or so or even later but I am concerned about some of
9 the folks who are in further removed areas being able to be
10 sure they can get home in a safe way. So he we will end at
11 noon today. We will not have trial tomorrow.

12 While it's possible the storm will pass us by, I think
13 it's sufficiently looking like it's going to land here that I
14 don't want to have people wondering about what kinds of
15 childcare arrangements and other arrangements they need to
16 make. So we're going to go ahead and call it a snow day for
17 tomorrow for you folks essentially no matter what happens.

18 For Wednesday my hope is that we'll be able to resume,
19 that tomorrow, late tonight some time the snow will stop or
20 tomorrow early they'll get the roads clear and we'll be able to
21 for Wednesday get people here. To give you a little bit more
22 time we'll start at ten a.m. on Wednesday. We'll still only go
23 till five but we'll start at ten a.m. on Wednesday.

24 Now with that said, Joe is going to speak to some of
25 you to get -- he's got all of your contact information. Make

F1QAULB2

Beeson - Cross

1 sure he's got exactly where you are going to be or a cellphone
2 to connect with you folks. But he's going to connect with some
3 of you who are living outside of the city to see how the
4 conditions are on Wednesday. Because even though Manhattan's
5 clear and the courthouse is open, that doesn't mean you are
6 going to be able to get in if you are snowed in in Rockland
7 County. So Joe will be communicating with you folks. As you
8 know, we can't go forward unless you are all here so we need to
9 assess the conditions where you folks are.

10 If it looks like it's just awful there's an auto line
11 and Joe will give you the phone number for it for the court,
12 the entire building. And that will tell you if the courthouse
13 is closed. If the court house is closed there is no way we are
14 going to be having trial. It's possible that if the courthouse
15 is open that we won't have trial Wednesday if some of you can't
16 get here.

17 So bottom line to summarize, today at noon, then we're
18 going to call off tomorrow, Wednesday at ten a.m. that's what
19 we're hoping. Thank you.

20 I want to remind you, sir, you are still under oath
21 from Thursday.

22 Mr. Dratel, do you want to continue, sir?

23 MR. DRATEL: Yes. Thank you, your Honor.

24 CROSS-EXAMINATION
25

F1QAAULB2

Beeson - Cross

1 BY MR. DRATEL:

2 Q. Good morning, Mr. Beeson.

3 A. Good morning.

4 Q. I just want to go back to something I showed you last week
5 Thursday and show you a different version. This will be
6 Defendant's H and ask if you recognize that.

7 A. I do recognize it as one of the pictures I took.

8 Q. Of the laptop while you were working with it?

9 A. Yes, this is a screen shot.

10 MR. DRATEL: OK. I move it into evidence, your Honor.

11 MR. TURNER: I have no objection.

12 THE COURT: Received; Defendant's Exhibit H.

13 MR. DRATEL: Thank you.

14 MR. TURNER: So looking at "H" we can get it
15 published.

16 (Pause)

17 Q. And looking at "H" you see on the top of that line across
18 and that's a bitcoin client program operating right where it
19 says the Colbert report?

20 A. Unfortunately, I don't know for sure what it is. I can see
21 that it says the Colbert report but I don't know what kind of
22 application it is.

23 Q. But if you look at the metadata that's part of this exhibit
24 now which -- did that enable you to recognize it, by the way?

25 A. Yes, it did. Thank you.

F1QAAULB2

Beeson - Cross

1 Q. So that's the 7:56 p.m. on October 1, 2013?

2 A. That's what it says, yes.

3 Q. 40 minutes off?

4 A. 40 minutes off.

5 Q. Which way though?

6 A. It's slow. So we'd have to add 40 minutes to this time
7 making it 8:36.

8 Q. 8:36 p.m. San Francisco time?

9 A. Yes, sir.

10 Q. And it says 197 -- no, it says 197 megabites uploaded 26.10
11 MB, right? Do you see on top of the red line?

12 A. Yes, I do.

13 Q. Now, you took these photos after you had already imaged the
14 laptop, correct?

15 A. My recollection is that the laptop was in the process of
16 being imaged. In other words, I had started the process and
17 was taking these photographs at that time.

18 Q. Did you testify Friday that you had already made your
19 copies that you took the photos after you had imaged it?

20 A. I would have to refer to my notes to be sure on the times.
21 A lot of times things are done as I go. You know, once I start
22 something I can start something else. So exact times I can't
23 recall.

24 MR. DRATEL: I just want to publish for a second
25 Defendant's G which is already in evidence.

F1QAAULB2

Beeson - Cross

1 (Pause)

2 Q. And there it says "uploaded 8.35 megabites". Can you see
3 that?

4 A. It's a little blurry on my screen but it looks like it
5 could be 8.35.

6 Q. OK. An on the one that we just saw that you took it's 26.1
7 megabites, right?

8 A. Yes.

9 Q. So, are you not familiar with the program that's running on
10 Defendant's H?

11 MR. TURNER: Objection; asked and answered, beyond the
12 scope and relevance.

13 THE COURT: Sustained.

14 Q. And you didn't generate the MD5 hash value for the laptop
15 until October 3 when you started the RAM capture?

16 A. Correct.

17 Q. And the RAM capture is essentially the running memory on
18 the laptop?

19 A. Yes. RAM is random access memory, that's correct.

20 Q. Can you just define that for the jury, please?

21 A. Yeah. So, random access memory is the memory in your
22 laptop or computer that's used by not hard drive storage. It
23 is that instantaneous memory that the basic code for the
24 programs get loaded into RAM and then your computer can use it
25 in there.

F1QAAULB2

Beeson - Cross

1 Q. And that gives you a window -- it gives you a ability to
2 see what processes are running on a computer, right, RAM?

3 A. Whether it gives you what processes are running --
4 everything get's loaded into RAM. So all the binary codes, all
5 the codes that the computer needs to run is loaded into RAM.
6 That could be the active process. That could be the operating
7 system and so forth.

8 Q. So on October 3 which is two days after you received the
9 laptop you began to do the RAM memory capture?

10 A. That's correct. One of my associates and I just to be
11 clear.

12 Q. And you weren't quite sure how to do that RAM capture,
13 correct?

14 A. The RAM capture was nontrivial.

15 Q. Right. But you weren't quite sure how to do it. You asked
16 for assistance, in fact?

17 A. I did.

18 Q. You asked whether there was a RAM capture tool that you
19 could use for it?

20 A. That's correct.

21 Q. And this is a relatively new field in computer forensics,
22 RAM capture?

23 A. No. I wouldn't say it's a new field.

24 Q. Well, one of the things that is part of the RAM capture is
25 encryption keys and passwords and other things that are stored

F1QAAULB2

Beeson - Cross

1 in the memory, right?

2 A. That's correct.

3 MR. TURNER: Objection.

4 THE COURT: Overruled.

5 Q. And the processes that the computer -- the process of the
6 computer programs that are running on the computer is something
7 else that RAM can tell you, RAM memory capture would be able to
8 reserve for you?

9 A. That information can be in RAM.

10 Q. And the active network connections at the time that the
11 capture occurred would be something else?

12 A. It can be. It doesn't necessarily mean that it is.

13 Q. And it could also determine whether there were malware or
14 viruses or other programs running on the system, correct?

15 A. It could be, yes.

16 Q. Now, you've used a piece of software called FMEM, F-M-E-M,
17 to try to acquire the RAM memory?

18 A. That's correct.

19 Q. And system memory is broken down into registers called
20 ranges; s is that right?

21 A. That's correct.

22 Q. And for FMEM you have to specifically point the program at
23 the registers that you want the system that you'd rather that
24 you want to capture, right?

25 A. That's correct. The RAM is divided into chunks, into

F1QAULB2

Beeson - Cross

1 groups, so to speak. Some are more protected than others.

2 Q. OK. And so -- and if you don't direct the capture process
3 at the right registers of RAM they will go to something called
4 uncachable, U-N-C-A-C-H-A-B-L-E?

5 A. I believe so.

6 Q. And you weren't sure at the time about this, is that fair
7 to say?

8 A. Well, this is why I obtained the help from one of my
9 associates.

10 Q. But in fact, the FMEM capture did not work entirely,
11 correct?

12 A. Upon capturing what I believe was the third register or
13 third section of the memory FMEM crashed the computer.

14 Q. And when it crashed the computer you were no longer able to
15 get any of the RAM capture that you had not gotten initially,
16 correct?

17 A. We were able to continue with the capture after the
18 computer was restarted.

19 Q. Now, you in doing your RAM capture you consulted the
20 manuals on the computer in an attempt to find out how to
21 proceed, right?

22 A. I don't recall consulting any manuals on the computer.

23 Q. Did you keep a running roster of commands that you issued
24 the computer during your work?

25 A. Yes, we did.

F1QAAULB2

Beeson - Cross

1 Q. I am going to show you what's marked Defendant's I for
2 identification -- "K", I am sorry. Call it Defendant's K for
3 identification. And ask you to look at page two of this
4 document. I ask you if that refreshes your recollection that
5 you consulted the manuals on the computer?

6 A. These are not the manuals for the computer. These are
7 manuals for the applications MEMDUM and FMEM that may or may
8 not have been on the computer.

9 Q. Right, but you were looking for them?

10 A. Yes.

11 Q. And did you find one for MEMDUM?

12 A. I don't recall whether one came up or not.

13 Q. Well, there's no such file for that on a Lenox system, is
14 there?

15 A. There could be. Depends on the Lenox system. Most likely
16 there was not but I don't remember for certain. Chances are
17 since I then checked for a manual for tool FMEM that there was
18 no tool for MEMDUM on the system.

19 Q. And so you never got a full RAM memory capture, correct?

20 A. Can you define a full RAM memory capture, please?

21 Q. Well, why don't you.

22 A. Well, the difficulty in RAM capture is that it's live, so
23 it's ever changing and it's ever active. When we captured what
24 I believed was the third register or third group of memory from
25 the RAM, the system crashed which is not that uncommon in RAM

F1QAAULB2

Beeson - Cross

1 captures. And so after we were able to restart we restarted
2 with our own version and move onto the next and we continued to
3 capture the other registers that were still there.

4 Q. But when you had the capture open before it crashed it has
5 all the operations going, correct?

6 A. Yes.

7 Q. And so once it crashes and then you reboot it, you've lost
8 all of that information that's included that went live before
9 it crashed, right?

10 A. You do not lose all of the information.

11 Q. But you lose information?

12 A. Do you lose information.

13 Q. And you don't know what information you lost?

14 A. You do not know.

15 Q. And that information is lost to us forever, essentially?

16 A. It is.

17 MR. DRATEL: Nothing further, your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Turner, anything further from the government?

20 MR. TURNER: One moment, your Honor.

21 (Pause)

22 MR. TURNER: Briefly, your Honor.

23 REDIRECT EXAMINATION

24 BY MR. TURNER:

25 Q. Agent Beeson, I talked to you about how when you are doing

F1QAAULB2

Beeson - Redirect

1 a live capture, things are changing. Could you explain a
2 little bit more what that means if you type something on a
3 keyboard just a single press of a keyboard does that change --

4 A. Yeah. So in performing a live capture of basically
5 capturing data from a running computer whether it be from the
6 hard drive or from the RAM, everything that we do is to some
7 degree altering information. And so our goal is to minimize
8 that alteration to the maximum we can but we do have to use the
9 computer in order to capture this information.

10 Q. So the sort of alterations you are talking about thought,
11 does that involve --

12 A. Absolutely, not. It's very minimal footprint. We were
13 trying our very best to not alter anything to the extent we
14 can.

15 Q. You talked about some errors you ran into or crashes. Any
16 of those prevent you from making a full and complete copy of
17 the Lenox half of the computer that we talked about on direct?

18 A. No, it isn't.

19 Q. And those errors, could any of those errors have resulted
20 in the generation of thousands of pages of TOR check logs on
21 the computer that weren't there before?

22 A. Absolutely, not.

23 MR. TURNER: No further questions.

24 MR. DRATEL: Briefly, your Honor.

25 THE COURT: All right.

F1QAULB2

Beeson - Redirect

1 RE CROSS EXAMINATION

2 BY MR. DRATEL:

3 Q. But the RAM capture, we lost the ability to see what the
4 computer was doing at that time, correct, in the full range of
5 it, correct?

6 A. Yes.

7 Q. Including connections to the internet, correct, in
8 connection with what was going on with the internet?

9 A. I supposed. That's define as anything it's part of the
10 group of things that could be in there.

11 Q. And the questions of malware and viruses and whatever else
12 might have been on there we'll also never know, right?

13 A. Potentially.

14 MR. DRATEL: Nothing further. Thank you.

15 THE COURT: All right. Thank you.

16 MR. TURNER: Excuse me. One more question, your
17 Honor.

18 THE COURT: One.

19 REDIRECT EXAMINATION

20 BY MR. TURNER:

21 Q. The RAM capture didn't prevent from you seeing what
22 historically had been on the computer from years before?

23 A. No.

24 MR. DRATEL: Objection as to form.

25 THE COURT: Overruled.

F1QAULB2

Beeson - Redirect

1 RE CROSS EXAMINATION

2 BY MR. DRATEL:

3 Q. You have no idea when anything was put on that computer,
4 right?

5 A. I did not conduct the forensic exam on that computer, so.

6 THE COURT: All right. Thank you. You may step down,
7 sir.

8 Would the government like to call its next witness,
9 please.

10 MR. TURNER: Yes, your Honor. The government calls
11 Internal Revenue Services Special Agent Gary Alford.

12 THE COURT: All right. Mr. Alford to the stand,
13 please.

14 GARY LUIS ALFORD,

15 called as a witness by the Government,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. TURNER:

19 Q. Good morning, Agent Alford.

20 A. Good morning.

21 Q. Who do you work for?

22 A. Internal Revenue Service Criminal Investigation.

23 Q. And what's your position at Internal Revenue Service
24 Criminal Investigation?

25 A. I am a special agent.

F1QAAULB2

Alford - Direct

1 Q. How long have you been a special agent with the IRS?

2 A. Approximately, six and a half years.

3 Q. Where are you currently assigned to work?

4 A. The New York Organized Crime Drug Enforcement Strike Force.

5 Q. What's the Strike Force do?

6 A. It's a task force of state, local and federal agencies and
7 we are charged with investigating, disrupting and dismantling
8 major drug trafficking organizations.

9 Q. What are yours duties at the strike force?

10 A. All the law enforcement duties whether it be surveillance,
11 interviews, conducting warrants, arrests.

12 Q. So did there come a time when you were assigned to an
13 investigation of the Silk Road website?

14 A. Yes, that was my first assignment.

15 Q. First assignment at the Strike Force?

16 A. Yes.

17 Q. When were you detailed to the Strike Force?

18 A. At the end of March 2013.

19 Q. And as part of your investigation into the Silk Road
20 website did you make any efforts to identify the operator of
21 the website?

22 A. I did.

23 Q. And did you ever do any searches on the Internet as part of
24 that investigation?

25 A. I did.

F1QAAULB2

Alford - Direct

1 Q. What were you looking for it?

2 A. I was looking for the first mention of the Silk Road
3 website on the Internet.

4 Q. And how did you search for the first mention of "Silk Road"
5 on the ordinary Internet?

6 A. I started using Google searches.

7 Q. OK. Did you restrict your search to certain date ranges?

8 A. Yes. When you search Google there's a task bar at the top
9 where you can restrict the date or customize the date. So, I
10 was aware of when the Silk Road allegedly had begun, so I had
11 restricted the date, so I would search before that.

12 Q. Why were you searching for the first mention of the Silk
13 Road website?

14 A. Because the Silk Road website was on a hidden part of
15 Internet TOR and TOR hidden services. So it does no good or
16 let's say a person who is not familiar with it for it just to
17 be there. You would have to have, someone would have to tell
18 you about it. So I figured that it would have to be on a
19 regular Internet and someone would have to tell you where to go
20 on the hidden Internet.

21 Q. OK. So could you take a look at the binder in front of
22 you, Government Exhibit 301.

23 A. I see it.

24 Q. Do you recognize that document?

25 A. Yes, I do.

F1QAAULB2

Alford - Direct

1 Q. What is it?

2 A. It's a representation of a Google search.

3 Q. That you did?

4 A. Yes.

5 Q. As part of your search for the first mention of the Silk
6 Road website on the ordinary Internet?

7 A. Yes, a representation of what I did.

8 MR. TURNER: The government offers Exhibit 301 into
9 evidence.

10 MR. DRATEL: No objection.

11 THE COURT: Received.

12 (Government's Exhibit 301 received in evidence)

13 MR. TURNER: Publish that.

14 (Pause)

15 Q. OK. So first of all, what were you searching for in the
16 Google search box?

17 A. Well, I was searching for -- I know that since it was a
18 Silk Road website you had to have Silk Road. But that's a
19 pretty generic term that we have a lot of responses. So I know
20 all the addresses on the TOR hidden services we use a dot on
21 it. So I would put a term that would be restricted to what
22 would be on the Silk Road website.

23 Q. Then there's this circle part of the screen. What does
24 that reflect?

25 A. That's how you would test the date range of what you are

F1QAAULB2

Alford - Direct

1 searching. So you can just put in an end date. So I'll put in
2 January 31 because all information was that Silk Road had begun
3 in February of 2011.

4 Q. OK. So you kept searching back, pushing the date range
5 further and further back?

6 A. Correct.

7 Q. And here you were searching for the results before
8 January 31, 2011?

9 A. Yes, sir.

10 Q. What did you get?

11 A. I got back what you see there, a response about a bitcoin
12 talk forum.

13 Q. So bitcointalk.org, what is a bitcointalk.org? You visited
14 the site?

15 A. Yes.

16 Q. What sort of site is hosted there?

17 A. It's a discussion forum surrounding bitcoins.

18 Q. So did you click on this link?

19 A. Yes, I did.

20 Q. What did it take you to?

21 A. It took me to a forum, a discussion thread.

22 Q. Can you just remind the jury what a discussion thread is?

23 A. On these forms you -- people would post a topic. So in
24 this particular one the topic was a heroin store and people
25 would comment and discuss that particular topic.

F1QAAULB2

Alford - Direct

1 Q. Could you take a look at what's been marked as Government
2 Exhibit 302 in your binder.

3 A. Yes.

4 Q. And do you recognize this document?

5 A. Yes, I do.

6 Q. How do you recognize it?

7 A. It's a screen shot that I took during my investigation.

8 Q. What is it a screen shot of?

9 A. The heroin discussion thread.

10 Q. When did you take that screen shot?

11 A. June 3, 2013.

12 Q. Is that, approximately, when you first visited that thread?

13 A. Yes.

14 MR. TURNER: Government offers 302 into evidence.

15 MR. DRATEL: No objection.

16 THE COURT: Received.

17 (Government's Exhibit 302 received in evidence)

18 MR. TURNER: In on the top third of the page.

19 Q. All right. so this is bitcoin forum and here is the thread;
20 is that right?

21 A. Yes, sir.

22 Q. And it's titled "The Heroin Store". And where do you find
23 a mention of Silk Road in this thread?

24 A. Further down, approximately --

25 MR. TURNER: Crop page 6.

F1QAAULB2

Alford - Direct

1 A. Yes, page six.

2 MR. TURNER: All right. Could you zoom in in this
3 area.

4 (Pause)

5 Q. So tell us what we're looking at here.

6 A. It appears that Altoid had made a posting on the bitcoin
7 form on January 29, 2011 and this member "shadow of" is cut off
8 had quoted it. And it mentions what appears to be a URL for
9 Silk Road.

10 MR. TURNER: All right. I think if you scroll down AL
11 little bit more you can see the full name, "Shadow of
12 Harbinger"?

13 A. Yes, that is the--

14 MR. TURNER: Can you scroll back up. All right. So
15 first all there's in this part of the post right here? Put the
16 name there.

17 (Pause)

18 Q. Just to be clear, the person who posted this overall post
19 or the user is what?

20 A. Shadow Harbinger.

21 Q. The post includes a post from Altoid?

22 A. Correct.

23 Q. And what does that mean, a quote from another user like
24 that?

25 A. Well, when you first on post on the bitcoin forum another

F1QAAULB2

Alford - Direct

1 person say if they're responding to something you specifically
2 said they will often quote your statement in their response
3 that people can follow along with the conversation.

4 Q. So this is a quote from a previous post that appeared on
5 the forum?

6 A. Yes.

7 Q. And what was the time of that previous post on the forum?

8 A. January 29, 2011 at approximately 7:44.

9 Q. And the user who posted that post was named "Altoid"?

10 A. Correct.

11 Q. All right. And it says:

12 What an awesome thread. You guys have a ton of great
13 ideas. Has anyone seen Silk Road yet? It's kind of like an
14 anonymous Amazon.com. I don't think they have heroin on there
15 but they are selling other stuff. They basically use bitcoin
16 and TOR to broker anonymous transactions. It's at -- and then
17 there's that long onion address. Those not familiar with TOR
18 can go to SilkRoad420.wordpress.com for instructions on how to
19 access the dot onion site.

20 Let me know what you guys think.

21 And then there's Shadow Harbinger's comments?

22 A. Yes.

23 Q. So here we go first bitcoin drug store response.

24 All right. So in the post Altoid mentions this
25 SilkRoad420.wordpress.com site. Did that web page still exist

F1QAAULB2

Alford - Direct

1 by the time you were doing your Google searches in June 2013?

2 A. No. It had been taken down.

3 Q. Were you able to obtain an archived version of the site?

4 A. Yes.

5 Q. Where did you get that from?

6 A. Archive.org.

7 Q. Could you take a look at what's been marked as 303 in your
8 binder.

9 A. I have it.

10 Q. Do you recognize this document?

11 A. Yes.

12 Q. How do you recognize it?

13 A. That's a screen shot of the archive.org capture of the
14 SilkRoad420.wordpress.com site.

15 MR. TURNER: The government offers 303 into evidence.

16 MR. DRATEL: No objection.

17 THE COURT: Received.

18 (Government's Exhibit 303 received in evidence)

19 MR. TURNER: Can you put it up on the screen.

20 (Pause)

21 MR. TURNER: Before you read it let me just read in a
22 stipulation, your Honor.

23 It is hereby stipulated and agreed by and between the
24 United States of America by Preet Bharara, United States
25 Attorney for the Southern District of New York, Serrin Turner

F1QAULB2

Alford - Direct

1 and Timothy C. Howard, Assistant United States Attorneys, of
2 counsel, and Ross Ulbricht, by and through his counsel Joshua
3 Dratel, Esquire, Government's Exhibit 303 is a screen shot of
4 an archived web page that was once success at
5 <http://SilkRoad420.wordpress.com>.

6 Government Exhibit 303 fairly and accurately depicts
7 the contents of the <http://SilkRoad420.wordpress.com> web page
8 as it appeared on February 4, 2011 when the web page was
9 archived on the website <http://web?>.

10 OK. So could we zoom into this part of the screen?

11 (Pause)

12 Q. So what did you find on SilkRoad420.wordpress.com?

13 A. It was a website that it gave you the instruction of how to
14 access the Silk Road hidden site.

15 Q. And it says: This is not the Silk Road but you are close.
16 Silk Road is a TOR hidden service that allows you to buy and
17 sell anonymously online using bitcoins. To access the Silk
18 Road site you must use a TOR enabled browser. If you use
19 Firefox you can simply install the TOR button plug-in.

20 And then jumping to the next paragraph, the third
21 paragraph. It says:

22 At Silk Road every precaution is made to ensure your
23 anonymity and security while connecting to the site from making
24 your transactions to receiving your items, current offerings
25 include marijuana, shrooms and MDMA. You may also sell items

F1QAULB2

Alford - Direct

1 anonymously on Silk Road as an independent seller. So what are
2 you waiting for. Install TOR and go to Silk Road now. Silk
3 Road staff.

4 So after finding this web page did you do any further
5 searches on Google?

6 A. I did.

7 Q. What did you search for next?

8 A. The SilkRoad420workpress.com.

9 Q. Could you look at Government Exhibit 304. And do you
10 recognize that exhibit?

11 A. Yes.

12 Q. How do you recognize it?

13 A. It's a representation of the Google search that I
14 performed.

15 MR. TURNER: Your Honor, the government offers Exhibit
16 304 into evidence.

17 MR. DRATEL: No objection.

18 THE COURT: Received.

19 (Government's Exhibit 304 received in evidence)

20 Q. So when you searched for SilkRoad420wordpress.com what new
21 thing did you find?

22 A. I found that there was another posting.

23 Q. And where was this posting that you found?

24 A. It was at shroomery.org.

25 Q. What was the date of posting?

F1QAAULB2

Alford - Direct

1 A. January 27, 2011.

2 Q. The one we looked at from Altoid@bitcointalktor when was
3 that?

4 A. Two days later January 29, 2011.

5 Q. Could you take a look at Government Exhibit 305.

6 A. I have it.

7 Q. Do you recognize this exhibit?

8 A. Yes.

9 Q. How do you recognize this?

10 A. This is a screen shot I took during my investigation of the
11 shroomery.org website.

12 MR. TURNER: The government offers 305 into evidence.

13 MR. DRATEL: No objection.

14 THE COURT: Received.

15 (Government's Exhibit 305 received in evidence)

16 MR. TURNER: Could you zoom in here.

17 (Pause)

18 Q. OK. So what was the shroomery website?

19 A. It's also a discussion forum for a discussion of illegal
20 mushrooms.

21 Q. And what did you find? What post did you find when you
22 clicked on the Google link that you found as a result of your
23 search?

24 A. I found this posting from Altoid and it also directed the
25 reader to the Word Press site.

F1QAAULB2

Alford - Direct

1 Q. All right. And the user who posted it is reflected to the
2 left?

3 A. Yes.

4 Q. And when it says registered 1/27/11 what does that reflect?

5 A. That reelects when the user registered the account on
6 shroomery.org.

7 Q. The Altoid user?

8 A. Yes.

9 Q. When was this message posted?

10 A. That same day.

11 Q. It also directed you to go to SilkRoad420.wordpress.com?

12 A. Yes, it did.

13 Q. So after finding these two posts about the Silk Road by the
14 user Altoid what did you do to try to find out who the person
15 was behind the Altoid user name?

16 A. Well, I wanted to see all the posts that those users made
17 on the relevant discussion forum.

18 Q. And so what did you do to look into that?

19 A. Well, the user -- you could click on the user and see posts
20 for that specific user.

21 Q. Did you do that at shroomery.org?

22 A. Yes.

23 Q. Did you find any more posts?

24 A. No.

25 Q. What about bitcointalk.org?

F1QAULB2

Alford - Direct

1 A. There were other numerous posts.

2 Q. Could you take a look at Government Exhibit 306.

3 A. I have it.

4 Q. Do you recognize this exhibit?

5 A. Yes.

6 Q. And how do you recognize it?

7 A. It's a screen shot I took during my investigation of the
8 post of Altoid on the bitcoin forum.

9 MR. TURNER: The government offers 306 into evidence.

10 MR. DRATEL: No objection.

11 THE COURT: Received.

12 (Government's Exhibit 306 received in evidence)

13 MR. TURNER: Top left.

14 (Pause)

15 Q. OK. So this page is all the posts of Altoid that you were
16 able to pull up on bitcointalk.org?

17 A. Yes.

18 MR. TURNER: Exit out.

19 (Pause)

20 Q. Did you find the Altoid post on bitcointalk.org that you
21 looked at earlier, the one that is quoted?

22 A. No, I did not.

23 Q. Can a bitcointalk user delete a post of theirs if they
24 want, do you know?

25 A. Yes, they can.

F1QAAULB2

Alford - Direct

1 Q. Can the site itself choose to delete a post --

2 MR. DRATEL: Objection.

3 THE COURT: Sustained.

4 Q. Have you visited bitcointalk forum?

5 A. Yes I have.

6 Q. Have you seen any rules of the site, any moderator actions
7 on the site?

8 A. Yes.

9 Q. And from that review of the site do you know whether
10 moderators on the site can delete content on the site?

11 MR. DRATEL: Objection.

12 THE COURT: Rephrase it.

13 Q. Sure. From familiarizing yourself with the site, the rules
14 of the site, do you know whether moderators on the forum can
15 delete forum posts if they think inappropriate?

16 MR. DRATEL: Objection.

17 THE COURT: I will allow it. It's not a perfectly
18 formed question but it's fine. You may answer it.

19 A. Yes, they can delete and a user can delete.

20 Q. Do you know if the user post is deleted can any quotes from
21 those users posts still show up in other user messages?

22 MR. DRATEL: Objection.

23 THE COURT: Sustained. You need to build --

24 MR. TURNER: I was asking if he knows, your Honor.

25 Q. Have you yourself tested the features of bitcointalk.org

F1QAULB2

Alford - Direct

1 forum?

2 A. I have.

3 Q. Have you tried -- can you explain from that testing that
4 you've done of the site, do you know that if a user's post is
5 deleted can a quote of that post still show up on the site?

6 A. Yes, I can. I went to the site and I tested it. I went to
7 the site and registered an account and I put a test post up.
8 Subsequent to that post I then quoted that same post so I can
9 see that it quoted my original post. I then went and deleted
10 the original post and see if the second post remained, which it
11 did. So I know that if someone can't post on a site someone
12 can delete it. But if one quotes a post it'll remain on the
13 discussion forum.

14 Q. What were you able to find in the posts of Altoid that you
15 were able to pull up on the bitcoin.org forum?

16 A. I found a post and I found the user had left an e-mail
17 address.

18 MR. TURNER: Can you zoom-in on the full post here.

19 (Pause)

20 Q. Is this a post you are referring to?

21 A. Yes, sir.

22 Q. And what's the date of the post?

23 A. October 11, 2011.

24 Q. And it's titled bitcoin project development IT pro needed
25 for venture back bitcoin start-up?

F1QAAULB2

Alford - Direct

1 A. Yes.

2 Q. Hello. Sorry if there is another thread for this kind of
3 post but I couldn't find one. I am looking for the best and
4 brightest IT pro in the bitcoin community to be the lead
5 developer in a venture backed bitcoin start-up company. The
6 ideal candidate would have at least several years of web
7 application development experience having built applications
8 from the ground up. A solid understanding of OOP and software
9 architecture is a must. Experience start-up environment is a
10 plus or just being super hardworking, self-motivating and
11 creative.

12 Compensation can be in the form of equity or a salary
13 or somewhere in between.

14 If interested, please, send your answer to the
15 following questions to RossUlbricht@G mail.com.

16 What are your qualifications for this position?

17 What interests you about bitcoin?

18 From there we can talk about things like compensation
19 and references and I can answer your questions as well. Thanks
20 for in advance to any interested parties. If anyone knows
21 another good place to recruit, I am all ears.

22 So at some point in the investigation did you obtain a
23 search warrant on the Ross Ulbricht@Gmail.com e-mail account?

24 A. I did.

25 Q. And when did you obtain that search warrant?

F1QAULB2

Alford - Direct

1 A. Approximately, October 78, 2013.

2 Q. So this was after the defendant's arrest in this case?

3 A. Approximately, a week after.

4 Q. And how does that work? When you obtain a search warrant
5 on an e-mail account how do you get records?

6 A. Well, in this case you get a search warrant to swear out in
7 front of a judge. Once it's sworn out then Google usually
8 requires --

9 MR. DRATEL: Objection, your Honor.

10 THE COURT: I'll allow it. You may continue.

11 A. Google allows you to scan it and then send via e-mail a
12 search warrant to them and then they produce the records and
13 they usually produce the records in the form of a thumb drive.

14 Q. Objection. So did you get the records from Google?

15 A. Yes.

16 Q. When, approximately, did you get the records?

17 A. I will have to refresh my memory. It wasn't too long
18 after.

19 MR. TURNER: I have a stipulation. Let's now read the
20 stipulation, your Honor, if I may.

21 THE COURT: All right. Ladies and gentlemen, you
22 recall from an earlier stipulation, not the one earlier today
23 but last week or perhaps even at the end of the first week,
24 that stipulations are agreements between the parties as to
25 certain facts and you can take those facts as established.

F1QAAULB2

Alford - Direct

1 You may proceed.

2 MR. TURNER: It is hereby stipulated and agreed by and
3 between the United States of America, by Preet Bharara, United
4 States Attorney for the Southern District of New York, Serrin
5 Turner and Timothy Howard Assistant United States Attorneys, of
6 counsel, and Ross Ulbricht by and through his counsel, Joshua
7 Dratel, Government Exhibits 307, 308-A, 308-B, 309, 311, 312,
8 312-C, 314, 315-A, 315-B, 316, 317, 320, 321, 322, 324, 325,
9 329, 330, 1000, 1001, 1002, 1003, 1004, 1006, 1007, 1008 are
10 true an accurate copies of e-mails contained in e-mail account
11 RossUlbricht@Gmail.com as of December 3, 2013.

12 All of the e-mail were maintained on computer servers
13 controlled by Google Inc. and were produced to Internal Revenue
14 Service Special Agent Gary Alford pursuant to a court order
15 served on Google on or about October 22, 2013.

16 Government Exhibit 1000, 1001, 1002, 1003, 1004, 1006,
17 1007 and 1008 and particular are logs on the record chats
18 conducted through Google Talk, an online chat service operated
19 by Google Inc. Google also provided the option to conduct
20 chats off the record, OTR, which are not stored at Google Chat
21 Talk either parties communicating through the chat.

22 I'll read the remainder later.

23 OK. So you didn't receive these records until after
24 the defendant was arrested; is that right?

25 A. Correct.

F1QAULB2

Alford - Direct

1 Q. First of all, in reviewing the contents of this
2 RossUlbricht@Gmail.com account did you find any evidence that
3 the user of the account was Ross Ulbricht, the defendant in
4 this case?

5 A. Yes.

6 Q. And what kind of evidence did you find along those lines?

7 A. I found communication to and from the defendant. I found
8 pictures representing the defendant. I found e-mails regarding
9 financial accounts of the defendant.

10 THE COURT: Mr. Turner, did you mean to offer the
11 documents that you'd read, the exhibit numbers of.

12 MR. TURNER: I can just do it now or when I go through
13 them.

14 THE COURT: All right. So long as you haven't
15 forgotten if that was your intent. You can do it whenever.

16 MR. TURNER: The stipulation is Government Exhibit
17 803.

18 Q. Take a look at Government Exhibit 307.

19 A. Got it.

20 Q. Do you recognize that document?

21 A. Yes.

22 Q. This is one of the e-mails you found in the account?

23 A. It is.

24 Q. What is it of?

25 A. It's a e-mail that, from the defendant to an individual

F1QAAULB2

Alford - Direct

1 named Crystal with an attachment and it states: I cut hair
2 today. What do you think?

3 MR. TURNER: The government offers 307 into evidence.

4 MR. DRATEL: No objection.

5 THE COURT: Received.

6 (Government's Exhibit 307 received in evidence)

7 MR. TURNER: Zoom in quickly.

8 Q. So the bottom of the message is: I cut my hair today.
9 What do you think? Which is an attachment to the e-mail?

10 A. Yes.

11 Q. Page two, the attachment?

12 A. Yes.

13 Q. You find our other e-mails, photos of the defendant like
14 this in the account?

15 A. Yes.

16 Q. So going back to the posts from Altoid. Did you find any
17 e-mail messages in the defendant's e-mail account that were
18 addressed to Altoid?

19 A. Yes.

20 Q. Take a look at Government Exhibit 306-A -- excuse me --
21 308-A.

22 (Pause)

23 A. I have it.

24 Q. What is this document?

25 A. It's an e-mail from shroomery.org website to Altoid with

F1QAULB2

Alford - Direct

1 the address RossUlbricht@Gmail.com.

2 MR. TURNER: Government Exhibit 308-A into evidence.

3 MR. DRATEL: Previous objection, your Honor.

4 THE COURT: All right. Those objections are overruled
5 308 A is received.

6 Q. So this message is from the shroomery. Do not reply at
7 shroomery.org?

8 A. Yes.

9 Q. To Altoid. And then the user's e-mail address is indicated
10 as RossUlbricht@Gmail.com?

11 A. Yes.

12 Q. Subject is shroomery message board account has been
13 created. Date is 1/27/2011, 6:22 p.m. When we look back at
14 shroomery post of Altoid, when did that indicate the account
15 had been registered?

16 A. January 27, 2011, same date.

17 Q. It says: Dear Altoid, you have successfully created an
18 account on the shroomery message board. Thanks for signing up.
19 Before you can use your account it must be activated. To
20 complete the process, please, click on the following link or
21 paste it into your browser.

22 Did you find any other e-mails in defendant's e-mail
23 account addressed to Altoid?

24 A. Yes.

25 Q. Could you take a look at Government Exhibit 308-B?

F1QAAULB2

Alford - Direct

1 A. I have it.

2 Q. Do you recognize this document?

3 A. Yes.

4 Q. What is it?

5 A. It is answer e-mail I found in the Defendant's G mail
6 account.

7 Q. And what is it about?

8 A. It is an e-mail from Drugs Forum to the defendant addressed
9 to Altoid.

10 MR. TURNER: Government offers 308-B into evidence.

11 MR. DRATEL: Same.

12 THE COURT: Those objections are overruled. 308 B is
13 received.

14 (Government's Exhibit 308-B received in evidence)

15 Q. OK. This is from February 9, 2011?

16 A. Correct.

17 Q. About two weeks later, the e-mail we just looked at?

18 A. Yes.

19 Q. It said private message, the Drugs Forum, have you been to
20 Drugs Forum, by the way?

21 A. I have.

22 Q. What kind of website is it?

23 A. Also a discussion forum about illegal substances.

24 Q. It's from Drugs Forum, date February 9, 2011 to
25 RossUlbricht@Gmail.com.

F1QAULB2

Alford - Direct

1 (Pause)

2 Q. It says do not reply to this e-mail.

3 Dear Altoid, have you received a new private message
4 at Drugs Forum from Fungus Head entitled "you have received an
5 infraction at Drugs Forum". To read the original version,
6 respond to or delete this message you must log-in here. This
7 is the message that was sent.

8 Dear Altoid, you've received an infraction at Drugs
9 Forum. Reason: Spamming. This infraction is worth 100 points
10 and may result in restricted access until it expires.

11 Zoom out.

12 (Pause)

13 Q. Original post. URL attach user received. No action
14 required.

15 Has anyone heard of Silk Road? They claim to be an
16 anonymous market place that uses TOR and bitcoin to broker
17 anonymous transactions. They seem legit but wanted to see if
18 anyone here has any experience on the site. The hidden URL
19 is -- and then there's a link -- or you can go through
20 <http://SilkRoad420.wordpress.com>. Would be interested to hear
21 any feedback. All the best, Drugs Forum.

22 So you say you have been to Drugs Forum?

23 A. Yes.

24 Q. And you've been to a number of other discussion forums as
25 well as part of your research?

F1QAAULB2

Alford - Direct

1 A. Yes.

2 Q. Based on that experience can you explain what an infraction
3 is on that discussion forum?

4 MR. DRATEL: Objection.

5 THE COURT: Why don't you do a little bit more in
6 terms of building a foundation.

7 Q. Do you know what an infraction is on a discussion forum?

8 A. Yes.

9 Q. How do you know?

10 A. It's usually a violation.

11 MR. DRATEL: Objection.

12 Q. How do you know?

13 THE COURT: I'll allow it.

14 A. When you go to discussion forum there's a term of service.
15 An infraction is when you violate the terms of service on that
16 discussion forum.

17 Q. What was the reason according to this e-mail that Altoid
18 was being notified that he gotten an infraction?

19 MR. DRATEL: Objection.

20 THE COURT: Overruled.

21 A. Spamming.

22 Q. Where is the spam located?

23 A. In that box where the message was sent.

24 MR. TURNER: OK. Could you put up Government Exhibit
25 240-A which has already been admitted into evidence. This is

F1QAAULB2

Alford - Direct

1 journal file labeled 2010. The jury's already heard. Could
2 you put it in top panel.

3 MR. DRATEL: I am going to object, your Honor.

4 THE COURT: Overruled.

5 MR. TURNER: Could you go to page two.

6 (Pause)

7 MR. TURNER: Could you pull it up so we can get part
8 of the top panel.

9 (Pause)

10 BY MR. TURNER:

11 Q. It says: While all of this was happening I began working
12 on a project that had been in my mind for over a year. I was
13 calling it Underground brokers but eventually settled on Silk
14 Road. The idea was to create a website where people could buy
15 anything anonymously with no trail whatsoever that could lead
16 back to them. I had been studying the technology for a while
17 but needed a business model and strategy. I finally decided
18 that I would produce mushrooms and I could list them on the
19 site for cheap. I worked my ass off setting up a lab in a
20 cabin out near Bastrop off the grid.

21 Did you find the e-mail notice Defendant's E mail
22 account about renting a place in Bastrop Texas?

23 A. Yes, I did.

24 MR. DRATEL: I am objecting to the reading before with
25 no question.

F1QAAULB2

Alford - Direct

1 THE COURT: Overruled. You may proceed.

2 Q. I should just make clear, have you reviewed the contents of
3 the defendant's laptop as part of your investigation?

4 A. Yes.

5 Q. That evidence was given to you by the FBI?

6 A. Yes.

7 Q. All right. So could I take a look at Government's Exhibit
8 314, please. Do you recognize this document?

9 A. Yes.

10 Q. How do you recognize it?

11 A. It's an e-mail in the Defendant's G Mail account.

12 Q. What's it about?

13 A. It's a e-mail regarding Craig's List about renting a
14 country home in Bastrop.

15 MR. TURNER: The government offers 314 into evidence.

16 MR. DRATEL: Previous objection, your Honor.

17 THE COURT: All right. Those objections are
18 overruled.

19 GX314 is received.

20 (Government's Exhibit 314 received in evidence)

21 MR. TURNER: Put that in the bottom panel, please.

22 (Pause)

23 Q. Subject \$825/two bedroom country home (Bastrop) from Ross
24 Ulbricht date July 6, 2010, 6:37 p.m. Is your house still
25 available, Ross? And then there's a Craig's List listing.

F1QAAULB2

Alford - Direct

1 Jump down to page two.

2 (Pause)

3 Yes, it is. Give me a number to call you back.

4 Reply?

5 A. Yes.

6 Q. Did you also review something on the defendant's commuter
7 labeled SR accounting?

8 A. Yes, I did.

9 Q. What was the nature of that document?

10 A. That was a spreadsheet of expenses.

11 MR. TURNER: Could you publish Government Exhibit 250?

12 (Pause)

13 Q. The dates of these entries are all from July 2010. The
14 first one is "start", then it's "lab clothes", "carryover from
15 fall 2009", "petri dishes", "Hepa filter", carryover from fall
16 2009. Did you find anything in the government's -- excuse
17 me -- in the defendant's e-mail account about any items like
18 this?

19 A. Yes, I did.

20 Q. What sort of things did you find?

21 A. I found e-mails related to the purchase of the Hepa filter.

22 Q. Can you take a look at Government Exhibit 315-A, please.

23 (Pause)

24 A. Got it.

25 Q. And what is this document?

F1QAAULB2

Alford - Direct

1 A. It is an e-mail from Sac sells or Sac distributors to the
2 defendant regarding the purchase of a pure clean room Hepa
3 filter.

4 MR. TURNER: The government offers Exhibit 315-A into
5 evidence.

6 MR. DRATEL: Same objections.

7 THE COURT: Those objections are overruled.
8 Government Exhibit 315-A is received.

9 (Government's Exhibit 315-A received in evidence)

10 Q. Subject orders shipped from SAC sales, date October 1, 2009
11 to RossUlbricht@Gmail.com. Then it says: Thank you for your
12 purchase to SAC sales. Your order has been shipped. The
13 description a precision air pure flow clean room Hepa filter
14 and the total cost is \$88.94. What was the cost of the expense
15 reflected in the spreadsheet?

16 A. \$89.

17 MR. TURNER: Could you put go back to the top panel
18 and scroll down some.

19 THE COURT: Mr. Turner, we are going to take a short
20 one break before we end, so you don't have to do it right now
21 but at some point when you reach a logical breaking point.

22 MR. TURNER: Sure.

23 Q. OK. There's some more entries here. Now we're in August
24 of 2010. We have containers, jars, hose, glue guns, plastic
25 sheet, one for gas, one for humidifier. Again, did you find

F1QAULB2

Alford - Direct

1 any e-mail receipts in the Defendant's e-mail account
2 reflecting any of these items?

3 A. Yes, I did.

4 Q. Take a look at Government Exhibit 315-B.

5 A. I have it.

6 Q. What is this document?

7 A. It's an e-mail from Amazon.com to the defendant regarding a
8 purchase he made.

9 MR. TURNER: The government afters 315-B into
10 evidence.

11 MR. DRATEL: Same objection.

12 THE COURT: All right. Those objections are
13 overruled. Government Exhibit 315-B is received.

14 (Government's Exhibit 315-B received in evidence)

15 Q. Header information, subject, your order with Amazon.com.
16 The date 8/16-201, Ross Ulbricht. Thank you for your order,
17 Ross Ulbricht.

18 Scroll down, please.

19 (Pause)

20 Q. OK. So the delivery estimate is given for a cool mist
21 humidifier, \$33.42?

22 A. Yes.

23 Q. How does that compare to the spreadsheet entry that you
24 saw?

25 A. It's within 42 cents of the 33 dollar entry.

F1QAAULB2

Alford - Direct

1 Q. So were these the only items you found like this that
2 matched -- excuse me. Were these the only e-mails you found on
3 the defendant's e-mail account that matched items on the
4 spreadsheet or were there others?

5 A. There were numerous others.

6 MR. TURNER: Government Exhibit -- actually I'll stop
7 there, your Honor.

8 THE COURT: All right. So ladies and gentlemen, let
9 just take a short break and then we'll come back and we'll sit
10 until noon. I want to remind you not to talk to each other or
11 anybody else about this case. Thanks.

12 (Jury not present)

13 THE COURT: All right.

14 (Continued on next page)

Flqgulb3

Trial

1 (In open court; jury not present)

2 (Witness temporarily excused)

3 THE COURT: All right. Let's all be seated. It's
4 just going to be a short break. I just wanted to make sure
5 that the jury had some break this morning.

6 I think in terms of the objections, the documentary
7 objections are in the nature of *Vayner* and hearsay. And the
8 *Vayner* objections we have gone over before for this particular
9 witness, the documents that he is getting in to, which there's
10 been an objection on *Vayner* grounds, have been appropriately
11 authenticated. In terms of hearsay, they are not for the
12 truth.

13 But I do want, Mr. Dratel, to give you an opportunity
14 to make the objection relating to the reading of the document
15 because that's one that we haven't yet encountered.

16 MR. DRATEL: Right.

17 THE COURT: You and I are familiar with another trial
18 with a similar objection, but I wanted you to make your record
19 and have the government respond.

20 MR. DRATEL: Thank you, your Honor. First on the
21 issue of initial exhibits, I didn't object because they were
22 authenticated. He was just saying what he did on the Internet,
23 but they shouldn't come in for the truth either because it's
24 really just about his process, so therefore they were -- in
25 other words, he said I took the screenshot, so it was the

Flqgulb3

Trial

1 screenshot, but, in fact, it shouldn't come in for the truth
2 either.

3 But with respect to the reading, the government
4 shouldn't get a chance to sum up periodically throughout the
5 case. There wasn't a question or an answer. I understand the
6 linkage between one exhibit and another exhibit if a question
7 is posed to the witness to do it, but not with the wholesale
8 reading of a post that has already been read in at the time
9 that it was put in evidence. I think through Mr. Kiernan, that
10 Mr. Howard read the same part. So, in that context, it's got
11 to be narrow in the sense of not exploiting the fact that it's
12 in evidence for the government to just simply reiterate its
13 evidence and get a midterm summation.

14 THE COURT: Mr. Howard.

15 MR. TURNER: This is evidence already admitted into
16 evidence. This is evidence that this agent reviewed and it's
17 important to give context -- it is part of the question. The
18 question is you reviewed this, did you find any evidence that
19 links to it in some way in the defendant's email account.
20 Without that context, the question doesn't make much sense and
21 there's no reason why the jury needs to be confused as to the
22 relevance of the questioning going on.

23 THE COURT: I allowed the question. And so long as
24 it's tied in a manner that you've suggested or otherwise not
25 cumulative, in other words, the government is not just slapping

Flqgulb3

Trial

1 up a document time after time without needing it for purposes
2 of context, I will continue to allow it but will be mindful of
3 if there's a point when it becomes cumulative.

4 MR. TURNER: I note a couple of things. First of all,
5 most of the exhibits that we're going to be fronting in this
6 manner the jury has either not seen before or have not seen the
7 portions from which I'll be reading.

8 But can I make a record on the hearsay point?

9 THE COURT: Yes.

10 MR. TURNER: These statements are not human statements
11 and the law is very clear under the federal rules that the
12 hearsay rules only apply to human statements. We have some
13 automatically-generated statement by Amazon or by a forum, a
14 discussion forum software, those are machine statements. I can
15 give your Honor law from several circuits.

16 THE COURT: How are you going to get in that it was
17 done by a machine as opposed to a human being sitting there
18 cutting and pasting his rules and slapping it onto an
19 infraction?

20 MR. TURNER: That's a different matter. I'm talking
21 about, for example, just the fact of the post, I think the fact
22 that the Altoid post shows up there and we can have the agent
23 testify that he tested out the discussion forum software, and
24 the post automatically flashes up on the screen, you don't need
25 a human being to type it up there.

Flqgulb3

Trial

1 THE COURT: I thought you were referring to the
2 infraction language from drug forum.

3 MR. TURNER: No. I'm just speaking generally when we
4 are talking about these computer-generated the statements.

5 THE COURT: Let me be clear: Your point is that the
6 word Altoid as a username when it is appearing on a forum post
7 is, according to the testimony, automatically generated?

8 MR. TURNER: Right.

9 THE COURT: Therefore, because it's automatically
10 generated, it's not a, quote, statement or a declarative
11 statement for hearsay purposes and, therefore, the hearsay
12 rules don't apply?

13 MR. TURNER: Right. The hearsay rules exist to
14 protect against problems of witness credibility, witness
15 memory, out-of-court declarant's memory, perception. Those
16 sort of issues, those sort of concerns do not apply to
17 statements automatically generated by computer. All I'm saying
18 is I'm not focusing on one exhibit we talked about in
19 particular, but when we're looking at these emails things like
20 Amazon receipts, etc., those are documents that are
21 automatically generated by computer.

22 THE COURT: How do we know that?

23 MR. TURNER: We can have the agent testify that he
24 shopped at Amazon before and it automatically pops up. We can
25 have a custodian from Amazon actually testify to that, but I

Flqgulb3

Trial

1 think it's common knowledge.

2 THE COURT: We'll see whether it's contested, but I
3 just want to note that if you're going to assert that something
4 falls within an exception or there's not even the need to go to
5 that exception, that it falls outside of a rule, while I might
6 intuitively think it or somebody else might intuitively think
7 it, I want to make sure that we either have a legal or
8 evidentiary basis.

9 If it's been established in prior cases that such
10 kinds of messages are automatically generated, then so be it.
11 It would strike me as the kind of thing where potentially it
12 could become a question of fact. So I just want to make sure
13 that you understand that I hear your legal proposition; whether
14 you've got a sufficient factual basis for that proposition I
15 think is a second question.

16 MR. TURNER: Okay. Just to be clear, we do fully
17 agree with your Honor that these things are not coming in for
18 the truth in any event, but we just wanted to note that even if
19 it were, these are not human statements. And if we need to
20 make more of a record on that, we can. But these are the sorts
21 of things that are generated when you do things on the computer
22 automatically by the system of the company you're using.

23 THE COURT: Mr. Dratel, first, and then I'll let you
24 say whatever you would like, but I want to make sure that I
25 understand your position on whether there's a factual dispute

Flqgulb3

Trial

1 as to whether certain of the Amazon messages, for instance, are
2 made by a machine or made by a human, similarly with respect to
3 Altoid.

4 MR. DRATEL: Right. There's no evidence that they're
5 computer-generated. I don't even know what that means in this
6 context; that unless we are in a world of artificial
7 intelligence that I don't believe we have reached yet, there
8 are no spontaneous computer-generated pieces of information.
9 They're all programmed by human beings. If I cut and paste
10 something and then hit a keystroke, is that automated?

11 THE COURT: I think that's a legal question.

12 MR. DRATEL: Yes, but even as a factual question, it's
13 not in evidence, so it's not established, so I'm not conceding
14 anything on that point.

15 THE COURT: Here's what I think the government should
16 do for this point just so we're clear -- there's plenty of time
17 for the government to do if it chooses to, it's up to you
18 folks -- one, I'd like to see some of the cases. I don't doubt
19 that if you say they exist, there are cases. I don't know
20 whether there are cases on both sides. I have not investigated
21 this issue, so I would appreciate whatever cases there are,
22 that you folks would like to make me aware of on either side of
23 this issue to understand the legal landscape; but, secondly, as
24 a factual matter, I think that even if the legal landscape says
25 automatic population of text on a page is not a declarative

Flqgulb3

Trial

1 statement for hearsay purposes, I think it must be, not having
2 read these cases, that the analytical background to that is
3 there's a certain amount of reliability in the coding of the
4 statement into the program, and so that, therefore, you get the
5 reliability of the declarative statement through the computer
6 program. If that's the case, then you need to demonstrate
7 factually that, in fact, you can rely upon that analytical
8 framework. That's my guess. You guys will look at the cases
9 and decide whether or not you're within striking distance of
10 the parameters, but I would think that would be close to the
11 analytical foundation.

12 Let's take a short break.

13 Mr. Dratel, was there anything else you wanted to say?
14 We were only dealing with that one issue.

15 MR. DRATEL: I think that's it.

16 THE COURT: Thank you. Let's take a short break and
17 come right back out.

18 (Recess)

19 (Continued on next page)

20

21

22

23

24

25

Flqgulb3

Trial

(In open court; jury present)

THE COURT: Will you all be seated, please.

Mr. Turner, you may proceed.

MR. TURNER: Thank you, your Honor.

BY MR. TURNER:

Q. Agent Alford, you testified that you reviewed the contents of the defendant's computer as part of your investigation?

A. Yes, I did.

Q. And you reviewed the contents of the defendant's email account?

A. Yes, I did.

Q. And did you do any comparison between the two?

A. Yes, I did.

Q. And what were you looking for?

A. I was looking for things that matched information on the defendant's computer versus information in the Google account or Facebook account.

Q. Okay. We'll get to Facebook in a minute.

Let's go to Government Exhibit 240B. This has already been admitted into evidence. This is another journal entry on the defendant's computer. This one is dated 2011. Can you zoom in on the first eight lines or so.

It says "Still working on good wagon books and Silk Road at the same time. Programming now. Patchwork php mysql.

flqgulb3

Alford - direct

1 Don't know how to host my own site. Didn't know how to run
2 bitcoind. Got the basics of my site written. Launched it on
3 freedomhosting."

4 Do you know what freedom-hosting is?

5 A. Yes.

6 Q. What is it?

7 A. It was a site where you can host websites.

8 Q. Websites where?

9 A. Usually on the dark web.

10 MR. DRATEL: Objection.

11 Q. You mean Tor?

12 A. Tor.

13 THE COURT: Sustained, but you can repeat that last Q
14 and A so it's clear.

15 MR. TURNER: Sure.

16 Q. Just to be clear, where were websites on freedomhosting,
17 where did they exist? On Tor or the ordinary Internet?

18 A. Tor.

19 Q. So can you see any reference in the defendant's email
20 address, in the defendant's email account about freedomhosting?

21 A. Yes, I did.

22 Q. Can you take a look at Government Exhibit 309. Do you
23 recognize this document?

24 A. Yes.

25 Q. What is it? What is it from?

flqgulb3

Alford - direct

1 A. It's an email from miller@roothosts to the defendant
2 regarding freedomhosting.

3 MR. TURNER: Government offers Exhibit 309 into
4 evidence, your Honor.

5 MR. DRATEL: Hearsay and Vayner, your Honor.

6 THE COURT: Those objections are overruled and
7 Government Exhibit 309 is received.

8 (Government's Exhibit 309 received in evidence)

9 MR. TURNER: Can you zoom in at the top third there,
10 please. That's good.

11 Q. So this is an email, the subject is "Re: Tor hidden
12 service." And I think the chain actually starts down at the
13 bottom, so if you can go down there.

14 On September 24, 2010 at 12:36 a.m. Ross Ulbricht
15 wrote "Hi, is it possible to set up a tor hidden service on
16 your servers?"

17 Go up. This person is writing back from someone at
18 roothosts.com?

19 A. Yes.

20 Q. And the reply is "Hello Ross. No, sorry. I suggest you
21 look at Freedom Hosting or KOGEON," and several dot-onion
22 addresses are provided below that.

23 As part of your review of the defendant's computer,
24 did you also look at some of the Tor chat logs on the
25 defendant's computer?

flqgulb3

Alford - direct

1 A. I did.

2 Q. Did those include Tor chats with the username h7?

3 A. Yes.

4 MR. TURNER: Could you please publish GX 224, which
5 has already been admitted into evidence.

6 Okay. And could you go to the bottom of page two,
7 please, and zoom in on that. This is page 17 of an 88-page
8 chat log. The date is October 30, 2011.

9 H7 says "How was your week?

10 Myself: Not bad. I will be traveling soon, so I have
11 much to do before I go and I didn't get as much done as I
12 wanted, but this week I will focus on getting out of town.

13 H7: Okay."

14 Go down to the next page.

15 "h7: Is it just you over there?

16 Myself: I have people to take care of, but I'll be
17 traveling alone. Is that what you mean?

18 H7: No, when you leave town will anyone be looking
19 after the servers?

20 Myself: Oh, yes indeed.

21 H7: Because I see "The Silk Road Staff" written in
22 messages but I don't know if it's just you or not.

23 Myself: It's basically just me, but more and more I
24 am trying to spread the responsibility around. You are a big
25 part of that."

flqgulb3

Alford - direct

1 Can you go back to page two again, please, the bottom.

2 MR. DRATEL: Objection, your Honor.

3 THE COURT: Overruled.

4 BY MR. TURNER:

5 Q. It says "myself: I will be traveling soon." And the date
6 of that is October 30th, 2011.

7 A. Yes.

8 Q. In the defendant's email account, did you see any evidence
9 of travel plans around this time?

10 A. Yes, I did.

11 Q. Can you take a look at Government Exhibit 329, please. Do
12 you recognize this document when you get to it.

13 A. Yes.

14 Q. What is it?

15 A. It's an email from CheapAir to rossulbricht@gmail.com
16 regarding airline tickets.

17 MR. TURNER: The government offers Government
18 Exhibit 329 into evidence.

19 MR. DRATEL: Hearsay and *Vayner*, your Honor.

20 THE COURT: Those objections are overruled. GX 329 is
21 received.

22 (Government's Exhibit 329 received in evidence)

23 MR. TURNER: Could you scroll down. Let's see. Let's
24 do the header information first, please.

25 Q. This is dated October 18, 2011; is that right?

flqgulb3

Alford - direct

1 A. Yes.

2 Q. It says "Confirmation for Ross Ulbricht."

3 Could you scroll down, please. Can you zoom in on the
4 flights. It's hard to read here but can you describe what
5 flights were shown?

6 A. There's an itinerary. One leg is dated Tuesday
7 November 15, '11, for Austin, Texas to Denver, Colorado; then
8 there's a second leg from Denver, Colorado to Los Angeles,
9 California; then there's a third leg from Los Angeles,
10 California to Sidney, Australia.

11 Q. Does the itinerary include a return trip on the second
12 page?

13 A. Yes, it does.

14 Q. And what is that return trip?

15 A. The first leg is Tuesday, April 3rd, 2012.

16 Q. About six months later?

17 A. Yes, sir. And it's departing from Sidney, Australia to San
18 Francisco, California; and then the final leg is April 3rd,
19 2012, from San Francisco, California to Austin, Texas.

20 Q. Could we take a look -- could we go back to Government
21 Exhibit 224, please, up at the top.

22 MR. DRATEL: Objection. This is the fourth time it's
23 going to be read.

24 THE COURT: Overruled. Overruled.

25 MR. TURNER: It wasn't read before.

flqgulb3

Alford - direct

1 THE COURT: You can proceed.

2 MR. TURNER: Could you go to page four, please and
3 zoom in to the conversation at the bottom. Can you actually
4 bring it into the center panel. Pages 52 through 53 of the
5 88-page chat log. December 15, 2011 is the date of the chat
6 starts.

7 "myself: By the way, I'm going to be unavailable from
8 about 4 am UTC Friday to about the same time on Sunday, so I'll
9 send you your pay tomorrow.

10 h7: k, you forgot me last week

11 h7: and can u send 100USD to Silk Road HR for this
12 weeks bounties?

13 myself: you are right, so sorry about that. sending
14 \$3k now for last week and this week."

15 Q. So, did you find any emails in the defendant's Gmail
16 account about any travel plans the weekend of December 15,
17 2011?

18 A. Yes, I did.

19 Q. And what did you find? Take a look at Government
20 Exhibit 330.

21 A. I found an email from Cally Ulbricht to the defendant
22 regarding a houseboating trip.

23 Q. Is that a Government Exhibit 330?

24 A. Yes, it is.

25 MR. TURNER: Government offers 330 into evidence, your

flqgulb3

Alford - direct

1 Honor.

2 MR. DRATEL: Objection, your Honor; hearsay and
3 Vayner.

4 THE COURT: Overruled. Government Exhibit 330 is
5 received.

6 (Government's Exhibit 330 received in evidence)

7 MR. TURNER: Could you zoom in on the message headers?
8 That's good.

9 Subject: Houseboating final checklist from Cally
10 Ulbricht date December 15, 2011 to Ross Ulbricht. "Seafarers,
11 if you remember nothing else for our trip tonight remember
12 these important points: We'll be setting off at 7:00 p.m." and
13 it goes on to offer various instructions.

14 And actually, if you could go down, Mr. Evert, to page
15 three. Listing for Boat 2 and person number ten is listed as
16 Ross Ulbricht for both days?

17 A. That's correct.

18 Q. Take a look at Government Exhibit 226I, please. Zoom in.
19 So who is this chat with?

20 A. VJ.

21 Q. And what's the date of the chat?

22 A. January 26, 2012.

23 Q. So this is page 383 to 384 of a 1,096-page chat log and it
24 says:

25 "myself: also, there is no sr user called smedley, I

flqgulb3

Alford - direct

1 guess he hasn't make him yet

2 myself: pretty great. speaking of spliffs, they are
3 abundant here, so I may just have to partake." Emoticon.

4 "vj: Ah, I'll send him a note about that - when he
5 said he was on at both sites, I guess he meant the private
6 forums and the SRForums

7 vj: Yeah, had zero sleep last night due to leg/muscle
8 cramps, and there was in the mail today a loz. time of
9 Tangerine pheno AOrange from ~s, that's taken about a month to
10 wend it's way to me. Kismet, I say.

11 vj: loz. tin., oops.

12 vj: Are you managing to relax?

13 myself: yea, for sure. friendly folks everywhere. very
14 relaxing environment.

15 vj: Sounds very Thai

16 myself: haha, I didn't expect you to start guessing

17 vj: Heh - was a comment, not a guess. I love thailand
18 for the weather, the people, and the weed ain't bad either."

19 Can you pull back up. Can you go down to the bottom
20 of this chat. This is from a few days later, February 1, 2012,
21 is that right?

22 A. Yes.

23 Q. It starts out:

24 "myself: ok, yea I keep all of my income/expenses from
25 the site on a spreadsheet

flqgulb3

Alford - direct

1 vj: how many concurrent users does the site have?

2 myself: I'm actually not sure

3 myself: I think I have 24 hrs, lemme see

4 vj: k

5 vj: <-- making a coffee, back in 3

6 myself: unique users logged in:

7 Day: 6073

8 Week: 17589

9 Month: 38021

10 Quarter: 72830

11 vj: interesting numbers - the big question is how many
12 concurrent."

13 You can skip down to the next page, Mr. Evert. The
14 chat ends -- I'll start here:

15 "vj: So yeah, that's my things for today then. Don't
16 need coin from you for a while, and we'll let utah/smed
17 interact a bit more before we make any decisions there.
18 Anything on your mind today?

19 myself: took the day off. ran around beaches and
20 jungles with some girls, very little on my mind." Emoticon.

21 "vj: girls and jungles, life dont' get any better for
22 o'l Dread Pirate Roberts, eh.

23 vj: But we'll hear no more of your fancy agorist
24 beaches and babes talk!"

25 Now, you mentioned earlier that you also looked at

flqgulb3

Alford - direct

1 Facebook records?

2 A. Yes, I did.

3 Q. Whose Facebook account did you review?

4 A. The defendant's.

5 MR. TURNER: Just a moment, your Honor. I'd like to
6 read in another stipulation. This is stipulation 810. It's
7 Government Exhibit 810.

8 It is hereby stipulated and agreed by and between the
9 United States of America by Preet Bharara, United States
10 Attorney for the Southern District of New York, Serrin Turner
11 and Timothy Howard, Assistant United States Attorneys, Counsel,
12 and Ross Ulbricht, by and through his counsel Joshua Dratel,
13 Esquire, as follows:

14 One, Government Exhibits 318, 319 and 331 are true and
15 accurate copies of records obtained in the Facebook account
16 Ross Ulbricht registered to the name Ross Ulbricht and to the
17 email accounts rossulbricht@gmail.com and rwul03ftsu.com. All
18 of the records were maintained on computer servers controlled
19 by Facebook, Inc. and they were produced through the Internal
20 Revenue Service Special Agent Gary Alford pursuant to Court
21 order served on the days of on or about October 22, 2013.

22 Government Exhibit 318 in particular is a status
23 update that was posted by the user to the Facebook account to
24 the user's Facebook wall. The Facebook user's wall is a space
25 on the user's Facebook profile where the user can post

flqgulb3

Alford - direct

1 messages, attachments and links that are visible to anyone who
2 can view the user's profile.

3 Government Exhibit 319 in particular is a photograph
4 stored in the Facebook account and user-created album entitled
5 "Thailand, February 2012" and uploaded by the user to the
6 account on or about March 29, 2012.

7 Q. So, can you take a look at Government Exhibit 319, please,
8 actually, 318.

9 A. I have it.

10 Q. And what is this that you're looking at?

11 A. It's a Facebook post.

12 Q. Is this from the Facebook records you received for the
13 defendant's Facebook account?

14 A. It is.

15 MR. TURNER: The government offers Exhibit 318 into
16 evidence, your Honor.

17 MR. DRATEL: The same objection.

18 THE COURT: The objection is overruled. GX 318 is
19 received.

20 (Government's Exhibit 318 received in evidence)

21 Q. So we saw the January 26 chat earlier. This is dated what?

22 A. January 27, 2012.

23 Q. It says "Surprise, I'm in Thailand now. Hanoi was way too
24 cold and allure of a warm beach was too much."

25 Can you take a look at Government Exhibit 319.

flqgulb3

Alford - direct

1 A. I have it.

2 MR. TURNER: Mr. Evert, can you put the last page of
3 the chat back up on the top panel.

4 Q. So we saw the reference before to beaches and jungles.
5 What does Exhibit 319 reflect?

6 A. It's a picture of the defendant in front of what appears to
7 be jungles and beaches.

8 Q. And is this from the Facebook account again?

9 A. Yes.

10 MR. TURNER: The government offers Exhibit 319 into
11 evidence.

12 MR. DRATEL: Same objection.

13 THE COURT: The objection is overruled. GX 319 is
14 received.

15 (Government's Exhibit 319 received in evidence)

16 MR. TURNER: There's the picture and down below, could
17 you zoom in, Mr. Evert, here.

18 Q. What was the name of the album that was found in?

19 A. "Thailand, February 2012."

20 Q. Look at 226H. These have already been admitted into
21 evidence.

22 MR. TURNER: Can you pull it up, Mr. Evert.

23 Q. This is another chat with VJ that you reviewed?

24 A. Yes.

25 Q. And the date of the chat is what?

flqgulb3

Alford - direct

1 A. February 7, 2012.

2 Q. It starts out "vj: tumbling is the key, and we need to set
3 up a frickin' HUGE series of small servers running transactions
4 all over the fucking place to the point that regression
5 analysis is impossilbe because the error level progresively
6 compounds until it could branch anywhere, and everywhere, at
7 once. Think millions of transactions per portion of coin rec'd.
8 We need a statistician, as I've said before, keep on the
9 lookout for one.

10 myself: I know a good statistician

11 vj: World class?

12 vj: know - or know of?

13 myself: I'll check up on her latest publications

14 myself: I know her and her husband well

15 vj: dude, no

16 vj: but you can ask her who are the top 5 folks in the
17 world in her field

18 myself: ok."

19 Q. Go to the next part of the chart. This is February 13.

20 A. Yes.

21 Q. It starts off: "myself: here is my convo with my stats
22 friend:

23 Myself: who are the top 5 statisticians in the world?

24 Myself: Wow, good question.

25 In terms of lifetime achievement or current "hotness"?

flqgulb3

Alford - direct

1 myself: Someone you could take a life or death stats
2 problem to and be confident in their answer.

3 myself: So this is a request for consultation, not an
4 evaluation of the field?

5 For business I take it," and it continues on.

6 Q. Did you find anything in the Defendant's Gmail account
7 about statisticians like this?

8 A. Yes, I did.

9 Q. Would you take a look at 322, please. What did you find?

10 A. I found an email from Ross Ulbricht; and in the email, the
11 same language that is in the Tor chat is contained within the
12 email.

13 MR. TURNER: The government offers Exhibit 322 into
14 evidence.

15 Q. That's what you were looking at when you just described
16 that email --

17 A. Yes, sir.

18 Q. -- just for the record?

19 MR. DRATEL: Objection; hearsay and Vayner.

20 THE COURT: All right. Those objections are
21 overruled. GX 322 is received.

22 (Government's Exhibit 322 received in evidence)

23 MR. TURNER: So can you zoom into the header
24 information, please. That's fine. You can start at the
25 bottom. From Ross Ulbricht to someone named Joseph: "Subject,

flqgulb3

Alford - direct

1 statistician: Who are the top five statisticians in the world
2 besides Heather?"

3 Can you scroll up.

4 Next chain, "Wow, good question. In terms of lifetime
5 achievement or current "hotness"?"

6 Reply: "Someone you could take a life or death stats
7 problem to and be confident in their answer."

8 Can we take a look at Government Exhibit 232C. It's
9 another Tor chat.

10 A. Yes.

11 Q. And who are the -- who is the other person on the Tor chat
12 this time?

13 A. DA.

14 Q. Could you zoom into the top half. The date of this chat is
15 what?

16 A. March 3, 2012.

17 Q. It starts out "da: Hey I'm curious about something
18 myself: what's up man

19 da: When you first started SR it must have been hard
20 to get the words aorund, it being a .onion

21 There was a mod KindBud who was part of GreenCo, who
22 was here from week one. Which means they most liekly heard it
23 form the place you first advertised. But then they dissapeared,
24 and ever since I have wondered what happened (we were in the
25 middle of a conversation and had been doing allot of

flqgulb3

Alford - direct

1 buissness).

2 myself: Ya know I almost forgot about KindBud and
3 GreenCo. I honestly don't know what happened to them.

4 da: How did you get the word out there? It would
5 almost seem you owuld have had to all ready know email vendors,
6 etc. Or else you advertised at other forums, which means I
7 might be able to find them else where.

8 myself: It's gotten back to me on more than one
9 occasion that a vendor has been busted, but whenever I ask
10 further, it's always from deals irl gone bad

11 da: (If you can;t tell that's cool)

12 myself: you know what I did

13 myself: I made one thread on the forums at
14 bitcointalk.org

15 myself: and made a blog at wordpress.com with
16 instructions

17 myself: both go taken down pretty quickly

18 myself: the rest was word of mouth

19 myself: and pr"

20 So, where did we see the first quote we looked at from
21 Altoid?

22 A. It was from the bitcointalk forum.

23 Q. Let's go back to the SR account and spreadsheet please,
24 Government Exhibit 250, page five. And zoom in a few lines
25 down here. Scroll up, please. That's fine. Okay.

flqgulb3

Alford - direct

1 Q. So, we're looking at late April 2012 in the spreadsheet and
2 there's an entry here for a laptop.

3 A. Yes.

4 Q. And what was the purchase price indicated on the
5 spreadsheet for it?

6 A. \$1,150.

7 Q. And did you see in the defendant's email account any record
8 of a laptop purchased around this time?

9 A. Yes, I did.

10 Q. Can you take a look at Government Exhibit 312, please.

11 A. I have it.

12 Q. And what are you looking at?

13 A. I'm look at an email from Amazon.com to the defendant's
14 Gmail account regarding a purchase of a Samsung series laptop.

15 MR. TURNER: The government offers Exhibit 312 into
16 evidence.

17 MR. DRATEL: Same objection, your Honor, hearsay and
18 Vayner.

19 THE COURT: The objections are overruled. Government
20 Exhibit 312 is received.

21 (Government's Exhibit 312 received in evidence)

22 MR. TURNER: Can you scroll in ton header information
23 and zoom in on the header information first.

24 Q. The date of this email is April 26, 2012?

25 A. Yes, it is.

flqgulb3

Alford - direct

1 Q. From Amazon.com to rossulbricht@gmail.com?

2 A. Yes, it is.

3 Q. And the subject is "Your order with Amazon.com"?

4 A. Correct.

5 MR. TURNER: And zoom out, and could you zoom into
6 this area.

7 Q. The item at the bottom is Samsung series 7NP700Z5A, silver
8 15.6-inch laptop, and what's the price indicated for the item?

9 A. \$1,153.98.

10 Q. How does that compare to the spreadsheet?

11 A. It's only within \$4 of the amount listed on the
12 spreadsheet.

13 Q. Could you tell from the defendant's email address how this
14 laptop purchase was paid for?

15 A. Yes.

16 Q. How could you tell?

17 A. I saw purchases of Amazon gift cards through the use of
18 bitcoins.

19 Q. Would you take a look at Government Exhibit 312C, please.

20 A. I have it.

21 Q. Are these the emails you were just referring to?

22 A. Yes, it is.

23 MR. TURNER: The government offers 312C into evidence.

24 MR. DRATEL: Same objection.

25 THE COURT: GX 312C is received. The objection is

flqgulb3

Alford - direct

1 overruled.

2 (Government's Exhibit 312C received in evidence)

3 Q. What do these documents reflect?

4 A. It reflects that they received payment of a certain amount
5 of bitcoins for a \$500 Amazon gift card.

6 Q. When you say "they," who are you referring to?

7 A. BTC Buy.

8 Q. You've been to that website?

9 A. That specific website? No, I have not.

10 Q. Have you been to other websites that offer gift cards for
11 bitcoins?

12 A. Me personally? No, I have not.

13 Q. Withdrawn.

14 How many emails like this did you see in the account
15 here?

16 A. From BTC Buy?

17 Q. Yes.

18 A. Approximately four.

19 Q. How many are reflected in 312C?

20 A. Three.

21 Q. How much are they each for?

22 A. They are for each \$500.

23 Q. And what are the dates of those purchases?

24 A. They are all April 25, 2012.

25 Q. And how does that compare to the purchase of the laptop?

flqgulb3

Alford - direct

1 A. It's approximately for the same amount as the purchase
2 price of the laptop.

3 Q. And the date? How does the date of those gift card
4 purchases compare to the purchase of the laptop?

5 A. I believe it's the day before.

6 Q. Did you find any emails in the defendant's email account
7 referencing the name Frosty?

8 A. Yes, I did.

9 Q. Would you take a look at Government Exhibit 311.

10 A. I have it.

11 Q. And what does it reflect?

12 A. It's an email from Peter to Ross Ulbricht where he
13 addresses the defendant as Rossty Frosty.

14 MR. TURNER: If government offers Exhibit 311 into
15 evidence.

16 MR. DRATEL: Same objections, hearsay and Vayner.

17 THE COURT: GX 311 is received. The objections are
18 overruled.

19 (Government's Exhibit 311 received in evidence)

20 Q. This is from someone named Peter to Ross Ulbricht who
21 referred to him as Rossty Frosty?

22 A. Yes.

23 Q. Is that the only email you found like that in the
24 defendant's email account or were there others?

25 A. There were others.

flqgulb3

Alford - direct

1 MR. TURNER: I'm at a natural stopping point.

2 THE COURT: Thank you.

3 Ladies and gentlemen, we're now going to break until
4 what I hope is Wednesday morning at 10:00. Make sure that you
5 follow Joe's instructions in terms of getting the court auto
6 line to call into to see whether the court is open, and then
7 Joe will otherwise communicate with you. And I'm hoping that
8 we all plan on being here ready to go Wednesday at 10:00.

9 I want to remind you not to talk to each other or
10 anybody else about this case and, again, to stay away from any
11 media reports about the case. And if you run across any
12 articles of any kind, whether on the Internet or in hard copy
13 or on the television, do make sure that you turn away from them
14 and that you do not read them or listen to them at all, all
15 right?

16 Thanks very much. Get home safe.

17 Mr. Alford, you may step down, as well. We'll resume
18 Wednesday at 10 a.m. we hope.

19 (Jury excused)

20 (Witness temporarily excused)

21 (Continued on next page)

flqgulb3

Alford - direct

1 (In open court; jury not present)

2 THE COURT: Ladies and gentlemen, let's be seated and
3 see if there is anything that we need to go over.

4 One thing that I wanted to note is that we had had a
5 discussion about whether or not the hard drive had been
6 properly authenticated in advance of Mr. Beeson's testimony and
7 the Court's ruling at that time, and I made myself a note to
8 this effect, was that it was received subject to further -- any
9 further authentication. And the Court believes that there is
10 now fully a sufficient foundation for the receipt of the hard
11 drive, so that connection has been made.

12 Are there things which you folks would like to raise
13 in advance of our break until Wednesday morning?

14 MR. TURNER: No, your Honor. Thank you.

15 MR. DRATEL: Nothing, your Honor. Thank you.

16 THE COURT: I look forward to receiving the jury
17 instruction materials from you folks with track changes in Word
18 tomorrow, late afternoon, if you can you can email it to my
19 chambers email box. Thank you.

20 (Adjourned to January 28, 2015 at 10:00 a.m.)

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GARY LUIS ALFORD	
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GOVERNMENT EXHIBITS

Exhibit No.	Received
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3011256
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3021258
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3031261
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3041263
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3051264
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3061266
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